

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: March 24, 2005

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA04-0105 for Variance

PROPOSAL: Variance to: allow a portion of a proposed addition to an existing one-story single-family residence to be located in a side yard setback area at 10.5 feet instead of the required 12.7 feet (12'8"); and to allow a front setback to be based on the average of the existing home and the home to the left (25 feet), rather than the average of the two homes on both sides (27 feet).

LOCATION: The project is located in the Red Hill area of North Tustin, west of Skyline Drive at 1792 Lerner Lane, Santa Ana. Third Supervisorial District.

APPLICANT: Amir Sadighi, property owner

STAFF J. Alfred Swanek, Project Manager Phone: (714) 796-0140
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SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA04-0105 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is an irregularly shaped (parallelogram) parcel, developed with a one-story, 4,063 square foot single-family dwelling constructed in 1970. The lot is part of Tract 5413, which recorded in 1965. The site's 125-E4-20,000 zoning designation (Small Estates, 125 feet minimum lot width, 20,000 square foot minimum lot area) was established in 1951. The E4 zone has a front setback requirement of 30 feet, a rear setback requirement of 25 feet, and side yard setback requirements of 10 percent of the average lot width, which for this lot is 12.7 feet from the property line (or 12'8"). The existing structure is setback 26 feet from the front property line, while the neighbor to the left has a front setback of 24 feet, by a variance granted in 1966.

The applicant proposes to construct additions to the home which entail a corner of one room of the home on left side to be as close as 10.5 feet to the property line, and another room's corner to be 11.33 feet (or 11'4"), both being less than the required 12.7 feet (or 12'8").

In addition, the applicant requests approval to allow a front setback of 25 feet for a corner of the addition (the existing home is at 26 feet at one point), rather than the permitted averaging of the homes on both sides, this being 27 feet, which would be greater than that of the existing home.

The total enclosed floor space of two fully enclosed structures (the single family dwelling and the detached 3-car garage) would be 7,065 square feet, on a lot that staff calculates is some 20,050 square feet, or 35%. Strangely, the County Assessor believes the lot size is only 19,050 square feet, but a review of the recorded Tract Map confirms that the lot is actually just over 20,000 square feet in size.

SURROUNDING LAND USE:

Direction	Zoning District	Existing Land Use
Project Site	125-E4-20,000	Residential – Single-family dwelling
North	125-E4-20,000	Residential – Single-family dwelling
South	125-E4-20,000	Residential – Single-family dwelling
East	125-E4-20,000	Residential – Single-family dwelling
West	125-E4-20,000	Residential – Single-family dwelling



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to the North Tustin Advisory Committee (NTAC) and the Foothill Community Association. As of the writing of this staff report, no opposition to project has been received resulting from the public notice. NTAC recommended denial of the proposal at a February 16, 2005 meeting (Exhibit 2), with discussion but without additional formal comments. The Foothill Community Association did not submit comments.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

The subject site's E4 Estate zone was established in selected areas of the County to provide for larger lots with greater side and front setbacks than the standard R1 residential zone. The purpose of the E4 zone is to provide for more open space between lots and between development and the street.

The proposed side yard setback variance is virtually identical to two others granted in the past for room additions on the same street. In 2003, via PA02-128, a variance was granted to 1742 Lerner two doors away, allowing a reduction in the side yard structural setback from a required 12.3 feet down to 8 feet, and a reduction in the roof eave side yard setback from a required 7.4 feet down to 5 feet. The shape of the lot, as a rough parallelogram, was cited as specific justification for granting the variance. In 1966, via A264, a variance was granted to 1822 Lerner next door, allowing a reduction in the side yard structural setback from a required 12.5 feet down to 10 feet, and a reduction in the roof eave side yard setback from a required 7.5 feet to 6 feet. 1822 Lerner is a parallelogram-shaped lot, exactly as the subject lot.

The requested reduction in side yard structural setback from 12.7 feet down to 10.5 feet at one point is comparable to the two other variances on the same street in the past for the same purpose, and, unlike the other two, no additional variance is requested to allow roof eaves to be any closer to the side property line than the standard 6% of lot width, or 7.6 feet.

An additional variance is requested to allow a front setback of 25 feet at one point, as compared to the 27 feet which would be allowed by averaging the existing home to the left (24 feet) and to the right (30 feet). The existing 1970-era home is as close to the front property line as 26 feet at one point.

By the same 1966 A264 variance referenced previously, 1822 Lerner was granted a front yard variance to where it is now. Staff does not see any rational objection to now allowing a room addition to be no closer in the front than the average of the existing home (26 feet) and that existing home to the left (24 feet).

The property most affected by this variance request is 1882 Lerner, which itself received the front and rear setback variances referred to above as A264, all in the year 1966.

Staff believes the Zoning Administrator can consider as possible variance justifications: a) the parallelogram shape of the lot; b) the fact that existing homes on the street in terms of front setbacks are 1-2 feet off in location due to the absence of a sidewalk demarcating the front property lines; and c) that the street itself bends slightly. It is only because of this last factor that the applicant, in continuing the existing straight front façade, ends with a house corner which is 1 foot closer to the true front property line than the existing house.

Before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings and approve the proposal. The special circumstances for approving the variance requested are included in Appendix A.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0105 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Charles Shoemaker, Chief
CPSD/Site Planning Section

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. NTAC minutes of the February 16, 2005 meeting
3. Site Photos
4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.